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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Australia, Austria, Belgium, Bulgaria, Canada, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Marshall Islands, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights,[1] international human rights treaties and other relevant international instruments and declarations,

Recalling the Geneva Conventions of 12 August 1949[2] and Additional Protocol I thereto, of 1977,[3] as applicable, as well as relevant customary international law,

Confirming the primary responsibility of States to promote and protect human rights,

Reaffirming the responsibility of States to respect international law, including the principle that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State and from acting in any other manner inconsistent with the purposes of the United Nations, recalling its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein,

[1] Resolution 217 A (III).

[2] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

[3] Ibid., vol. 1125, No. 17512.

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Recalling its resolution 3314 (XXIX) of 14 December 1974 ,

Recalling also its resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine, in which it affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders and called upon all States, international organizations and specialized agencies not to recognize any alteration to the status of the Autonomous Republic of Crimea and the city of Sevastopol and to refrain from any action or dealing that might be interpreted as recognizing any such altered status,

Recalling further its resolutions 71/205 of 19 December 2016 and 72/190 of 19 December 2017 on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, and relevant decisions of international organizations, specialized agencies and bodies within the United Nations system,

Concerned that the provisions of those resolutions and relevant decisions of international organizations, specialized agencies and bodies within the United Nations system have not been implemented by the Russian Federation,

Condemning the ongoing temporary occupation of part of the territory of Ukraine — the Autonomous Republic of Crimea and the city of Sevastopol (hereinafter "Crimea") — by the Russian Federation, and reaffirming the non-recognition of its annexation,

Affirming that the seizure of Crimea by force is illegal and a violation of international law, and affirming also that those territories must be returned,

Supporting the commitment by Ukraine to adhering to international law in its efforts to put an end to the Russian occupation of Crimea, and welcoming the commitments by Ukraine to protecting the human rights and fundamental freedoms of all its citizens,

Reaffirming the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law,

Welcoming the reports of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Ukraine, of the Commissioner for Human Rights of the Council of Europe, and of the human rights assessment mission of the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, in which they stated that violations and abuses of human rights continued to take place in Crimea and pointed to the sharp deterioration of the overall human rights situation,

Welcoming also the reports of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, submitted pursuant to resolutions 71/205[4] and 72/190[5],

Reaffirming its grave concern that the human rights monitoring mission in Ukraine continues to be denied access to Crimea, despite its existing mandate, which covers the entire territory of Ukraine within its internationally recognized borders,

Condemning the imposition and retroactive application of the legal system of the Russian Federation, and its negative impact on the human rights situation in

[4] See A/72/498.
[5] See A/73/404.

Crimea, the imposition of automatic Russian citizenship on protected persons in Crimea, which is contrary to international humanitarian law, including the Geneva Conventions and customary international law, and the deportation and regressive effects on the enjoyment of human rights of those who have rejected that citizenship,

Gravely concerned by consistent reports that the Russian law enforcement system uses involuntary placement in a psychiatric institution as a form of harassment against and punishment of political opponents and activists,

Deeply concerned that, since 2014, torture has reportedly been used by the Russian authorities to extract false confessions for politically motivated prosecutions, including in the case of Oleg Sentsov, a Ukrainian film-maker, and expressing deep concern about the ongoing arbitrary detentions and arrests by the Russian Federation of Ukrainian citizens, including Volodymyr Balukh and Emir-Usein Kuku, and in particular those on hunger strike,

Condemning the reported serious violations and abuses committed against residents of Crimea, in particular extrajudicial killings, abductions, enforced disappearances, politically motivated prosecutions, discrimination, harassment, intimidation, violence, including sexual violence, arbitrary detentions and arrests, torture and ill-treatment, in particular to extract confessions, and psychiatric internment, and their transfer or deportation from Crimea to the Russian Federation, as well as reported abuses of other fundamental freedoms, including the freedoms of expression, religion or belief and association and the right to peaceful assembly,

Reaffirming its serious concern at the decision of the so-called Supreme Court of Crimea of 26 April 2016 and the decision of the Supreme Court of the Russian Federation of 29 September 2016 to declare the Mejlis of the Crimean Tatar People, the self-governing body of the Crimean Tatars, to be an extremist organization and to ban its activities,

Condemning the ongoing pressure exerted upon religious minority communities, including through frequent police raids, threats against and persecution of those belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate, the Protestant Church, mosques and Muslim religious schools, Greek Catholics, Roman Catholics and Jehovah's Witnesses, and condemning also the baseless prosecution of dozens of peaceful Muslims for allegedly belonging to Islamic organizations,

Condemning also the widespread misuse of counter-terrorism and anti-extremism laws to suppress dissent,

Recalling the order of the International Court of Justice of 19 April 2017 on provisional measures in the case concerning *the Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*,[6]

Recalling also the prohibition under the Geneva Conventions of 12 August 1949 for the occupying Power to compel protected persons to serve in its armed or auxiliary forces, including through pressure or propaganda that is aimed at securing voluntary enlistment,

Underlining the importance of the measures to develop transparent, accessible, non-discriminatory and expeditious procedures and regulations governing access to Crimea for human rights defenders, journalists, media workers and lawyers, as well

[6] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 4* (A/72/4), chap. V, sect. A.

as the possibility to appeal, in accordance with national legislation and in conformity with all applicable international law,

Condemning the blocking by the Russian Federation of Ukrainian websites and television channels and the seizure of Ukrainian transmission frequencies in Crimea,

Welcoming the support provided by Ukraine to media outlets and civil society organizations that have fled Crimea, which improves the ability of the media and civil society to work independently and without interference,

Welcoming also the continued efforts of the Secretary-General, the United Nations High Commissioner for Human Rights , the Organization for Security and Cooperation in Europe, the Council of Europe and other international and regional organizations to support Ukraine in promoting, protecting and ensuring human rights, and expressing further concern over the lack of safe and unfettered access by established regional and international human rights monitoring mechanisms and human rights non-governmental organizations to Crimea,

1. *Deplores* the failure of the Russian Federation to comply with the repeated requests and demands of the General Assembly, as well as with the order of the International Court of Justice of 19 April 2017 on provisional measures in the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*;[6]

2. *Strongly condemns* the continuing and total disregard by the Russian Federation for its obligations under the Charter of the United Nations and international law regarding its legal responsibility for the occupied territory, including the responsibility to respect Ukrainian law and the rights of all civilians;

3. *Condemns* all attempts by the Russian Federation to legitimize or normalize its attempted annexation of Crimea, including the automatic imposition of Russian citizenship and illegal election campaigns;

4. *Also condemns* violations, abuses, measures and practices of discrimination against the residents of the temporarily occupied Crimea, including Crimean Tatars, as well as Ukrainians and persons belonging to other ethnic and religious groups, by the Russian occupation authorities;

5. *Further condemns* the unlawful imposition of laws, jurisdiction and administration in the occupied Crimea by the Russian Federation, and demands that the Russian Federation respect obligations under international law with regard to respecting the laws in force in Crimea prior to occupation;

6. *Urges* the Russian Federation:

(a) To uphold all of its obligations under applicable international law as an occupying Power;

(b) To fully and immediately comply with the order of the International Court of Justice of 19 April 2017;

(c) To take all measures necessary to bring an immediate end to all violations and abuses against residents of Crimea, in particular reported discriminatory measures and practices, arbitrary detentions and arrests, torture and other cruel, inhuman or degrading treatment, revoke all discriminatory legislation and hold accountable those responsible for those violations and abuses;

(d) To respect the laws in force in Ukraine, repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the confiscation of private

property in Crimea, in violation of applicable international law, and respect the property rights of all former owners affected by previous confiscations;

(e) To immediately release and allow the return to Ukraine, without preconditions, of Ukrainian citizens who were unlawfully detained and judged without regard for the requirements of international law, as well as those transferred or deported across internationally recognized borders from Crimea to the Russian Federation;

(f) To monitor and accommodate the medical needs of all Ukrainian citizens unlawfully detained for the exercise of their human rights and fundamental freedoms, including political prisoners, in Crimea and the Russian Federation and allow the monitoring of those detainees' state of health and conditions of detention by independent international monitors and physicians from reputable international health organizations, including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the International Committee of the Red Cross;

(g) To uphold the rights, in accordance with international law and until their release, of Ukrainian prisoners and detainees in Crimea and in the Russian Federation, including those on hunger strike, and encourage it to respect the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);[7]

(h) To provide Ukrainian consular officials with information on Ukrainian citizens detained in the Russian Federation, ensure freedom of consular communication with, and consular access to, detained Ukrainian citizens, in accordance with the Vienna Convention on Consular Relations,[8] to which the Russian Federation is a party, and allow Ukrainian officials, including the Ukrainian Parliament Commissioner for Human Rights , to visit all Ukrainian citizens, including political prisoners in Crimea and the Russian Federation;

(i) To address the issue of impunity and ensure that those found to be responsible for violations and abuses are held accountable before an independent judiciary;

(j) To create and maintain a safe and enabling environment for journalists and media workers, human rights defenders and defence lawyers to perform their work independently and without undue interference in Crimea;

(k) To restore enjoyment of the rights of all individuals, without any discrimination based on origin or religion or belief, revoke the decisions that banned cultural and religious institutions, non-governmental organizations, human rights organizations and media outlets and restore enjoyment of the rights of individuals belonging to ethnic communities in Crimea, in particular Ukrainians and Crimean Tatars, including that to engage in cultural gatherings;

(l) To ensure that the right to freedom of opinion and expression and the rights to peaceful assembly and freedom of association can be exercised by all Crimean residents in any form, including single-person pickets, without any restrictions other than those permissible under international law, including international human rights law, and without discrimination on any grounds;

(m) To refrain from criminalizing the right to freedom of opinion and expression and the right to peaceful assembly and quash all penalties imposed on

[7] Resolution 70/175, annex.

[8] United Nations, *Treaty Series*, vol. 596, No. 8638.

Crimean residents for expressing dissenting views, including regarding the status of Crimea;

(n) To ensure the availability of education in the Ukrainian and Crimean Tatar languages;

(o) To revoke immediately the decision declaring the Mejlis of the Crimean Tatar People an extremist organization and banning its activities, repeal the decision banning leaders of the Mejlis from entering Crimea and refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions;

(p) To end the practice of compelling Crimean residents to serve in the armed or auxiliary forces of the Russian Federation, including through pressure or propaganda, and in particular ensure that Crimean residents are not compelled to participate in military operations of the Russian Federation;

(q) To end the practices of deporting Ukrainian citizens from Crimea for not taking Russian citizenship and of discriminating against Crimean residents for not possessing identity documents issued by the Russian Federation;

(r) To cooperate fully and immediately with the Office of the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe and the Council of Europe on the situation of human rights in Crimea;

7. *Calls upon* the Russian Federation to address the substantive concerns and all recommendations highlighted in the reports of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine,[4,5] as well as previous relevant recommendations from 23 reports on the situation of human rights in Ukraine by the Office of the United Nations High Commissioner for Human Rights based on the work of the United Nations human rights monitoring mission in Ukraine established to prevent further deterioration of human rights in Crimea;

8. *Requests* the Secretary-General to continue to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and relevant regional organizations, to ensure safe and unfettered access to Crimea by established regional and international human rights monitoring mechanisms, in particular the human rights monitoring mission in Ukraine, to enable them to carry out their mandate;

9. *Urges* the Russian Federation to ensure the proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea, including all places where persons may be deprived of their liberty, recognizing that the international presence in Crimea is of paramount importance in preventing further deterioration of the situation;

10. *Supports* the efforts of Ukraine to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in the occupied Crimea in order to facilitate their access to democratic processes, economic opportunities and objective information;

11. *Calls upon* all international organizations and specialized agencies of the United Nations system, when referring to Crimea in their official documents, communications and publications, including with regard to statistical data of the Russian Federation, to refer to "the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation", and encourages all States and other international organizations to do the same;

12. *Requests* the Secretary-General to take all steps necessary to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of the present resolution;

13. *Also requests* the Secretary-General to continue to provide his good offices and pursue his discussions relating to Crimea, involving all relevant stakeholders and including the concerns addressed in the present resolution;

14. *Further requests* the Secretary-General to report to the General Assembly at its seventy-fourth session on the progress made in the implementation of the present resolution, including options and recommendations to improve its implementation;

15. *Decides* to continue its consideration of the matter at its seventy-fourth session under the item entitled "Promotion and protection of human rights".